

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
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UNITED STATES OF AMERICA

- against -

**ORDER DENYING
TEMPORARY RELEASE**
13-CR-0124(RRM)

LUIS GONZALEZ, also known as "Polo",

Defendant.

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ROSLYNN R. MAUSKOPF, United States District Judge.

By letter motion dated July 14, 2013 (Doc. No. 53), defendant seeks temporary release from detention to attend the funeral of his half-brother who was murdered in Brooklyn last week.¹ In the alternative, defendant requests that this Court recommend to the United States Marshal for this District that defendant be escorted to the funeral. Defendant's application is denied in its entirety.

Pursuant to a plea agreement, defendant pled guilty on June 5, 2013 to Conspiracy to Distribute Cocaine Base in violation of 21 U.S.C. §§ 841(b)(1)(C) and 846, the sole count of the above-captioned indictment. Defendant is awaiting sentence and faces a maximum term of imprisonment of 20 years. Pursuant to his plea agreement, the government has estimated the defendant's Advisory Sentencing Guideline range for incarceration will fall between 15 - 21 months, assuming a three-point reduction for acceptance of responsibility and a Criminal History category of III.

Defendant has been in custody since his arrest on March 4, 2013 pursuant to an Order of Detention Pending Trial issued by Magistrate Judge James Orenstein (Doc. No. 14). The Pretrial Services Report prepared at the time of defendant's arraignment notes that defendant has two

¹ While defendant's application mentions the burial scheduled for July 21, it seeks permission only for defendant to attend the funeral on July 19. The application does not provide the location or other details for either event.

prior felony convictions: a 2006 conviction in Kings County for Criminal Possession of a Loaded Firearm (Class D Felony), for which he was sentenced to a custodial term of three years followed by 18 months of post-release supervision, and an August 2011 conviction in Kings County for Assault in the Third Degree (Class A Misdemeanor) for which he was sentenced to a custodial term of six months. The Report also reflects an additional open case in Kings County involving a felony drug sale, as well as an unstable residence history and substance abuse history.

In light of the 20-year maximum sentence faced by defendant for his serious crime of conviction and the recommended Advisory Guideline range as set forth in the plea agreement which calls for a term of incarceration, as well as the defendant's violent criminal history, lack of a stable residence and history of substance abuse, the court finds by clear and convincing evidence that no condition or combination of conditions of release, even for a brief period of time, will reasonably ensure that the defendant is not likely to flee or pose a danger to the community. 18 U.S.C. § 3143(a)(2). For these reasons, defendant's application for temporary release is denied. To the extent that the Court has the power to "recommend" that the United States Marshal "escort" defendant to the funeral, the Court declines to make any such recommendation.

SO ORDERED.

Dated: Brooklyn, New York
July 18, 2013

Roslynn R. Mauskopf

ROSLYNN R. MAUSKOPF
United States District Judge